

Appendix H Objections and Officers' Responses

NOTE – Respondents could identify multiple objections

<u>Number of Respondents</u>	<u>Issues Raised</u>	<u>Officers' Responses</u>
37	1. A large number of respondents proposed that a lido should be provided in North Walls Park.	<p>A petition was submitted in support of a lido at the North Walls Park. Members and officers met with the petition organisers to understand their ideas and shared information concerning the suitability of the Site. The petition was then presented to Full Council on 12 January 2022. The benefits of open water swimming were discussed. The response to the petition was that the council supports open water swimming but due to the current affordability and likely constraints on the Site (which can be found in the 2013 'River Park Leisure Centre Flood Risk Design Note'), the Site was not considered appropriate for a lido. Winchester Town Forum Members have offered to work with the petition organisers to look at outdoor swimming opportunities in and around Winchester Town.</p> <p>The North Walls consultation was referenced in some of these objections. The North Walls Consultation asked a question that included a wet play option as well as a lido, but did not separate the two. The council is progressing the wet play option in the North Walls Improvement Plan.</p>
17	2. The new leisure centre is not accessible to a large part of the town, and does not adequately replace the former centre, and	A full Sport England Sports Facilities Audit was undertaken as part of the Leisure Centre replacement process. This was completed in November 2017 and covers the period from 2017 to 2037. This showed that the new Sport and Leisure

	<p>is not large enough to cater for the expected population growth. The old centre should therefore be retained.</p>	<p>Park meets the forecasted demand for that period. Cabinet has already decided to decommission the leisure centre by its decision dated 24 June 2020.</p> <p>Accessibility to the new Sport and Leisure Park is being enhanced through the Winchester Movement Strategy. It has recently been agreed to provide free bus access on the park and ride buses from the City Centre to Bar End. The accessibility and use of the new leisure centre is not affected by the proposed disposal of the land.</p> <p>The specification of the new WSLP was designed and predicated on the River Park Leisure Centre closing.</p>
40	<p>3. Population must have opportunities to remain active, and must consider the health benefits as part of their decision making.</p>	<p>Officers agree with this statement, which is a prime objective of the North Walls Park Plan, new leisure centre and is supported by Councillor Angela Clear as Cabinet Member for communities and wellbeing.</p> <p>The Winchester Sport and Leisure Advisory Board meet in public. Residents who are interested in attending should contact cdrummond@winchester.gov.uk</p>
213	<p>4. To grant the university a 150 lease would violate the 1902 covenant which states that area should be used for public purpose/open space and should not be used for profit. The original transfer of land effectively made the council Trustees on behalf of the local</p>	<p>The Site forms part of WCC's freehold title no. HP3062 comprising the North Walls Recreation Ground and the site of the Ancient Gateway of Hyde Abbey, which was acquired under an Indenture dated 3 July 1902 made between William Barrow Simonds and the Urban District Council of the City of Winchester, being the Winchester City Council's statutory predecessor. The limitations on the use of the land created by the Indenture under the statutory trust which arose under s.164, Public Health Act 1875 could be removed by</p>

	<p>community, and as such a number of respondents question who has title to the land and can the council legally 'sell' it.</p>	<p>appropriation under s.122, Local Government Act 1972 and any rights impeding works overridden by the application of S.203, Housing and Planning Act 2016. This would only apply to the part of the Site required for the university's new campus scheme.</p> <p>It should be emphasised that not only will the skate park and bowls club continue on the Site, but that continued public access to and recreational use of areas outside the Site, including Hyde Abbey Gardens, the North Walks Recreation Ground and the tennis courts, will be unaffected by the university's new campus scheme.</p> <p>(Appropriation also frees land held in accordance with the Open Spaces Act 1906 from any trust arising under that Act, although the council's legal advice is that the 1875 Act applies, not the 1906 Act.)</p> <p>The agreement for lease with the UoS will recognise the fact that the exercise of appropriation in relation to the Site is a necessary step for enabling the development. Where open space is concerned the appropriation must be the subject of an advert for 2 weeks and consideration of objections – in a similar way to the notice proposing a disposal. Further detail is included in the Cabinet report and the appropriation would be the subject of a further report and decision by Cabinet.</p>
28	5. Alternative indoor and outdoor sports, leisure and cultural facilities including a museum, performance space, café, beach volley ball, basketball and table	A number of the proposed alternative uses are included within the new leisure park. The relocation of the facilities to the new Winchester Sport and Leisure Park site was considered in prior Cabinet reports and approved by Cabinet on 24 June 2020.

	<p>tennis. The site also provides the opportunity to create a variety of wheel chair accessible recreational uses.</p>	<p>Additionally, future recreational and sporting uses in North Walls Park are the subject of on-going engagement and communications as part of the implementation of the North Walls Park Plan. These include tennis courts and a café, the subject of the consultation in March 2019, and are to be provided as ongoing facilities in the park.</p>
103	<p>6. The Skate Park is loved and should remain. It is in excellent condition, and highly accessible. Skateboarding is a recognised Olympic sport. The site is especially good for young women and girl skaters as it is overlooked and well lit. It is also free of charge which benefits those on lower incomes The adjoining Bowling club is accessible and ideal for its use, being on flat ground, and should therefore be kept</p>	<p>Having taken account of public feedback, the arrangements now include a provision for the council to take a 'lease back' of the skate park. This will secure the continuation of the skate park under the council's management. It was never the intention for the skate park to be lost as it is recognised as a well-used and valuable community asset.</p>
34	<p>7. Winchester City Council are acting unlawfully. The land is protected as statutory open space under the Open Spaces Act 1906, and the Local government Act 1972. There is no mention in the Notice of the leasing arrangements for the existing leisure centre site, which should have been</p>	<p>See item 4 above.</p> <p>The existing leisure centre and associated car park are not "open space". Officers are satisfied that the closed leisure centre itself and the leisure centre car park do not qualify as open space. This is because the leisure centre has been closed and has not been used for public recreation since late 2020, and since closure the principal use of the leisure centre car park has been as a free car park for people visiting local shops and businesses and it is not an area used</p>

	<p>included in the Notice and not treated separately. It is alleged that it would be illegal for the council to 'sell' the site at below market value. The whole process is legally flawed because there has been no competitive bidding for the site They point to the report to Cabinet CAB 3190 in 2019 which pointed out the legal implications of disposing of this land.</p>	<p>for recreational purposes.</p> <p>In any event, prior to the completion of the lease there will be substantial further opportunities for the public and stakeholders to express their views, both in response to the university's application for planning permission and the proposed appropriation of the part of the Site required for the new campus scheme,</p> <p>There is no proposal to sell at less than the best consideration that is reasonably obtainable (in accordance with the duty under S123 of the Local Government Act 1972).</p> <p>Competitive bidding for the sale of land by a council is not a statutory requirement and best consideration may lawfully be established through independent valuation advice.</p>
144	<p>8. The new proposals are not in the interest of the local community, and do not have any public benefit, and there is no guarantee of any public access</p>	<p>The Cabinet report draws out the public benefits of the proposals made by the university.</p> <p>The contractual arrangements to be entered into with the university will ensure the continuation of the skate park and will also be subject to the existing lease to the bowls club (unless they agree to relocate). Therefore, the existing recreational uses and the public benefits they bring, will remain.</p> <p>There are footways around all four sides of the Site which allow public access to Hyde Abbey Gardens, the North</p>

		<p>Walks Recreation Ground and the tennis courts from Gordon Road and Park Avenue.</p> <p>Public access through the Site (as developed by the university) will be recognised in the agreement for lease and lease.</p>
29	<p>9. Increased traffic problems in the area/environmental impact, including the impact on adjoining uses, i.e. St Bede's school, Hyde Abbey Gardens, the tennis courts, etc.</p> <p>With the development of Barton Farm, there will be significant pressures on the roads and other community infrastructure.</p>	<p>A full transport assessment of all potential impacts of traffic and other environmental impacts, together with a package of mitigation measures would be a pre-requisite of any application for planning permission to develop the Site.</p>
7	<p>10. There is no safe walking/cycling route. Servicing facilities are also inadequate. It is essential that there are good pedestrian and cycle links between uses on the site and elsewhere in the town</p>	<p>This is something that would be taken into consideration as part of the planning process, and there would be a requirement that cycling and walking are the prime modes of transport for accessing the Site. It will be important to show how good cycling and walking access will be achieved.</p>
45	<p>11. A number of respondents object to the principle of 'selling 'public land' to Southampton University. Many see the University as a commercial</p>	<p>The University of Southampton is an exempt charity under the Charities Act 2011. They are a chartered corporation, established by Royal Charter in 1952.</p> <p>The comments regarding the focus on arts and working with</p>

	<p>organisation and not a public body and in their view private landlords should not be involved with public land. There are particular concerns that the University put commercial interests first, and have a poor record in respect of the Arts, including closing down the nationally respected Textile Conservation Centre.</p> <p>If the focus of this site is going to be the arts, why not work closer with the existing arts community to develop and fund the proposals.</p>	<p>the community are wholeheartedly agreed with by the University – this absolutely is their intention and will be clearly set out in their engagement plan.</p>
41	<p>12. The land including the existing leisure centre should be repurposed for the benefit of local residents or left alone. Various suggestions are put forward as to how the existing leisure centre building might be used. Reusing the existing building would be more compatible with the council's declared climate emergency in that the demolition and construction of a new building is more carbon intensive.</p>	<p>The council see no public benefit in leaving the existing leisure centre in its current condition.</p> <p>The council will consider any suitable alternative uses for the empty leisure centre building as part of its consideration of appropriation of the relevant part of the Site. Such uses should be economically viable and practicable considering its condition.</p> <p>Any new buildings put forward by the university as part of a planning application would need to meet the council's policies on energy efficiency and related climate change requirements.</p>

207	<p>13. There has been a failure to consult on the principle of disposing of this land and the adjoining leisure centre with local residents, and key organisations such as the University of Winchester, the Hampshire Wildlife Trust, experts in Historic Areas, and the Theatre Royal who will all be affected by this proposal.</p>	<p>There is no statutory requirement for a formal public consultation before entering into a leasehold disposal, and nor has the council made a clear commitment to formal public consultation prior to any disposal of the Site.</p> <p>However, prior to the completion of the lease there will be substantial further opportunities for the public and stakeholders to express their views, both in response to the proposed appropriation of the Site as well as in response to the university's application for planning permission.</p> <p>The public has been aware of the consideration of alternative uses for the Site since the decision to provide a new leisure centre at Bar End in 2017 and to decommission the leisure centre in June 2020. Various options for use of the Site have been considered and discussed which include housing and a lido.</p>
72	<p>14. There is a great deal of uncertainty on how the land will be used, and the future intentions of the University. Several respondents want to see the land retained/ returned to open space. And there is concern that the University uses will dominate the park and restrict access to the site and the wider area.</p>	<p>The current decision relates to entering into an Agreement for Lease with the university to allow them to bring forward development proposals.</p> <p>Detailed consideration of the future use of the Site will be undertaken once the details of the proposed campus scheme on the Site are known, and a further decision by the council would be required for the relevant part of the Site to be appropriated to enable the university's development proposals to move forward and for the lease to be granted.</p> <p>The appropriation decision will be informed by a report, based on worked out development proposals, addressing the</p>

		<p>central issue under S122(1) Local Government Act 1972 of whether the relevant part of the Site “is no longer required for the purpose for which it is held”. This is a comparative test that involves consideration of whether there is a greater public need for development for the proposed new use than the current use.</p> <p>Because the Site includes open space, any such appropriation would need to be preceded by an advertisement in two consecutive weeks in a newspaper circulating in the area, and consideration of any objections to the proposed appropriation: S122(2A) Local Government Act 1972.</p>
23	<p>15. There has not been a proper assessment of the risks and potential costs to the council. The lease requires the council to demolish the leisure centre at a cost of £2 million, which won't be recouped by the council. There are no/few restrictions on the lease, the leaseholders will be able to sell on the lease, with no obligation for repairs and the University does not have a good record of caring for its buildings. The council will accrue significant costs through the leasing arrangements. The proposed length of the lease is too long, and is a virtual</p>	<p>The purchase price to be agreed will reflect the obligation on the council to demolish and remediate the Site. These costs are therefore properly accounted for.</p> <p>The capital investment by the university required to build out the Site for educational purposes, and the benefits accruing to the city from that, could not be justified on a short term lease. Long leases of 150 years are a market standard in such situations where the freeholder wishes to retain their legal interest in the land and generate a capital receipt, whilst also enabling development.</p> <p>Any assignment would continue to be subject to the restrictions on use and other lease covenants, and the Site would continue to be governed by planning controls.</p> <p>The Leasehold Property Repairs Act 1938 and the Landlord and Tenant Act 1927 limit a landlord's rights to enforce</p>

	freehold	repairing obligations. The practical effect of including repairing covenants in a long lease is therefore limited.
27	16. Granting a lease to the University would lead to an increase in the number of students which will impact the surrounding area, including an increase in demand for accommodation. Winchester already has a higher student population to general population ratio than both Oxford and Cambridge.	<p>We would expect the development proposals made by the university under its planning application to explain how any increase in student numbers would be planned for in terms of student accommodation</p> <p>Student housing will not be permitted on this Site.</p> <p>Vision for Winchester 2030 sets out our ambitions around promoting culture and supporting creative endeavour, supporting our post-pandemic recovery, the environmental sustainability of our economy and the long-term employability of young people</p>
51	17. The site is within a flood zone, and important to flood defences, and water quality.	The site of the leisure centre and skate park are within an area at risk of flooding. Any proposals to develop in or around this area would need to address this issue in line with planning policy and include an assessment of the risk of flooding which would be considered as part of the planning application process and, if permission were granted, include a package of mitigation measures as appropriate. The assessment would also include the potential wider impacts of the development in flood risk terms.
15	18. The proposals are contrary to the adopted Local Plan policy, wherein existing open space and leisure uses should not be developed unless there has been suitable alternative	<p>Any future development proposals for the Site will require planning consent, and the planning application will be required to be assessed in accordance with the adopted Local Plan.</p> <p>A new and enhanced leisure facility has already been</p>

	<p>provision made. The Local Plan also identifies a shortfall of open space and children's play provision locally. The land subject of the Notices is identified on Policy Map 26 which accompanies the local Plan Part 2 as being outside of the settlement boundary and therefore is covered by policy MTRA 4 in the Local Plan Part 1 which seeks to restrict development in the countryside and rural areas.</p>	<p>provided to replace the decommissioned leisure centre.</p> <p>The open space (the bowls club and skate park) is remaining. The children's play area is outside of the site plan and is not included in this proposed disposal.</p> <p>It is correct that the land subject of the notices is outside of the settlement boundary and as such is covered by policy MTRA 4 in the Local Plan Part 1 which seeks to protect the countryside and rural areas.</p>
70	19. Adjoining green space should be protected. There is a danger that development on this site would cause pollution, and threaten the Itchen and Winnall Moore Nature reserve	As part of the assessment of any planning application that comes forward for the Site the impact on biodiversity and protected habitat sites would be considered including possible effects upon the local water environment and nature reserve.
35	20. Not a good financial decision	The financial considerations are addressed in the Cabinet report, which describes the capital and revenue benefits to the council.
148	21. The land should remain public open space	See item 4 above and other paragraphs above regarding the preservation of current uses and site access.
27	22. No public access for 35 years following the sale	The Heads of Terms refer to a permitted use throughout the lease term that prohibits residential accommodation (including student residences) and use for primary or

		secondary education. The site may only be used for tertiary education for 35 years. These terms do not mean that there will be no access for the purposes of the bowls club and skate park or for public movements over or around the Site in order to access the North Walls Park. The general permeability of the site will also be explored with the University as their masterplan is developed.
6	23.No obligation to repair	See item 15.
67	24.The Land is publicly owned and not for the Council to dispose of	See items 4 and 7.
5	25.Reducing the size of the car park is detrimental to the public	The council will retain part of the car park (comprising 77 spaces). It is expected that displaced car park users will park elsewhere in the city centre and at Park & Ride facilities.
42	26. Southampton University should not have the lease	See the Cabinet report for a description of the benefits to the city.
35	27.Risk to the wider area which covers North Walls Recreation Ground, Hyde Abbey Garden and Hyde Gate, Winnall Moors	The disposal does not impinge on these areas and access is covered in other answers.
1	28.The Council's Notice of a disposal of open space land is defective	The notice is in accordance with the statutory requirements. See further section 4 of the Cabinet report under the heading Open Space regarding the scope of the notices.

